

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:07 CV 00011**

ELENA M. DAVID, et al.,

Plaintiffs,

v.

J. STEELE ALPHIN, et al.,

Defendants.

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**DEFENDANTS' MOTION TO STAY DISCOVERY AS TO ISSUES OF MARKET  
TIMING INVOLVING BANK OF AMERICA AND ITS AFFILIATED MUTUAL FUNDS**

Defendants Bank of America Corporation, J. Steele Alphin, Amy Woods Brinkley, Edward J. Brown, III, Charles J. Cooley, Richard M. DeMartini, Barbara J. Desoer, James H. Hance, Kenneth D. Lewis, Liam E. McGee, Eugene M. McQuade, Alvaro G. De Molina, Michael E. O'Neill, Owen G. Shell, Jr., R. Eugene Taylor, F. William Vandiver, Jr., and Bradford H. Warner ("Defendants") hereby move to stay discovery in the above captioned case solely as to the issue of market timing involving the Nations Funds, which is the subject of ongoing multidistrict litigation ("MDL") in the U.S. District Court for the District of Maryland, MDL No. 1586 (the "Market Timing MDL"). Defendants seek to stay discovery on this issue pending the presiding judge's ruling on the settlement agreed to by the plaintiffs and the Bank of America defendants in the Market Timing MDL.

Pursuant to Local Rule 7.1(b), before filing this motion counsel for Defendants attempted to contact counsel for Plaintiffs Elena M. David, Arleen J. Stach, and Victor M. Hernandez's ("Plaintiffs") by telephone on June 12 and June 15, 2009 to seek Plaintiffs' agreement to the stay contemplated by this motion. Plaintiffs' counsel was unavailable at both times and did not respond to Defendants' counsel's attempted contacts.

Dated: June 16, 2009

Respectfully submitted,

/s/ Shannon M. Barrett  
SHANNON M. BARRETT (*Pro Hac Vice*)  
sbarrett@omm.com  
ROBERT N. ECCLES (*Pro Hac Vice*)  
beccles@omm.com  
GARY S. TELL (*Pro Hac Vice*)  
gtell@omm.com  
**O'MELVENY & MYERS LLP**  
1625 Eye Street, NW  
Washington, D.C. 20006-4001  
Telephone: (202) 383-5300  
Facsimile: (202) 383-5414

IRVING M. BRENNER  
**MCGUIREWOODS LLP**  
201 North Tryon Street  
Charlotte, North Carolina 28202  
Telephone: (704) 343-2075  
Facsimile: (704) 373-8935

*Attorneys for Defendants Bank of America Corporation, J. Steele Alphin, Amy Woods Brinkley, Edward Brown III, Charles J. Cooley, Richard M. DeMartini, Barbara J. Desoer, James H. Hance, Jr., Kenneth D. Lewis, Liam E. McGee, Eugene McQuade, Alvaro de Molina, Michael E. O'Neill, Owen G. Shell, Jr., R. Eugene Taylor, F. William Vandiver, Jr., and Bradford H. Warner.*

## CERTIFICATE OF SERVICE

I, Dexter L. Pagdilao, Jr., HEREBY CERTIFY that on this 16th day of June, 2009 I electronically filed the foregoing Defendants' Motion To Stay Discovery As To Issues Of Market Timing Involving Bank Of America And Its Affiliated Mutual Funds with the Clerk of the Court using the ECF system, which will send notification of such filing to the counsel of record listed on the service list below. In addition, I placed copies of the foregoing documents in the U.S. Mail to the counsel of record listed below.

Gregory Y. Porter Bailey & Glasser LLP 601 Pennsylvania Avenue, NW Washington, DC 20004 Tel. 202-543-0226 Fax: 202-434-8252 Email: <a href="mailto:gporter@baileyglasser.com">gporter@baileyglasser.com</a>	J. Brian McTigue McTigue & Veis LLP 4530 Wisconsin Ave., NW, Ste. 300 Washington, DC 20016 Tel. 202-364-6900 Fax: 202-364-9960 Email: <a href="mailto:bmctigue@mctiguelaw.com">bmctigue@mctiguelaw.com</a>
Bryan T. Veis McTigue & Veis LLP 4530 Wisconsin Ave., NW, Ste. 300 Washington, DC 20016 Tel. 202-364-6900 Fax: 202-364-9960 Email: <a href="mailto:bveis@mctiguelaw.com">bveis@mctiguelaw.com</a>	Jennifer Hope Strouf, Esq. McTigue & Veis LLP 4530 Wisconsin Ave., NW, Ste. 300 Washington, DC 20016 Tel. 202-364-6900 Fax: 202-364-9960 Email: <a href="mailto:jstrouf@mctiguelaw.com">jstrouf@mctiguelaw.com</a>
	Robert M. Elliot Elliot Pishko Morgan, P.A. 426 Old Salem Road Winston-Salem, NC 27101 Tel. 336-724-2828 Fax: 336-714-4499 Email: <a href="mailto:rmelliot@epmlaw.com">rmelliot@epmlaw.com</a>

Dated: June 16, 2009

/s/ Dexter L. Pagdilao, Jr.

Dexter L. Pagdilao, Jr.

O'Melveny & Myers LLP